

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/739

<u>Applicant</u>	: Warm Sunshine Rehabilitation Home Limited represented by Kea Kwun (International) Consultants Limited
<u>Site</u>	: Lot 1267 in D.D. 84 and Adjoining Government Land (GL), Tai Po Tin, Ta Kwu Ling, New Territories
<u>Site Area</u>	: About 744.5 m ² (including about 680 m ² of GL)
<u>Lease</u>	: New Grant No. 11118 (for erection of a building for non-industrial purpose)
<u>Plan</u>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zonings</u>	: (i) “Agriculture” (“AGR”) (about 725.9 m ² or 97.5% of the Site) (ii) “Government, Institution or Community” (“G/IC”) (about 18.6 m ² or 2.5% of the Site) ¹
<u>Application</u>	: Renewal of Planning Approval for Temporary Social Welfare Facility (Residential Care Home for Persons with Disabilities) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary social welfare facility (residential care home for persons with disabilities) (RCHD) for a period of three years until 22.9.2026 (**Plan A-1**). The Site falls within an area mostly zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is currently paved, fenced-off and used for the applied use with valid planning permission until 22.9.2023.
- 1.2 There is an existing 3-storey NTEH (with a total floor area of about 167.8m²) erected in the western part of the Site, providing 26 bed spaces with residential care for persons with disabilities. A single-storey structure (total floor area of about 12.4m²) is located under a canopy covering an area of about 109.7 m² at the south of the NTEH for cooking, dining

¹ A narrow strip of the Site of about 18.6m² (i.e. about 2.5% of the total site area) falls within the “G/IC” zone on the Ping Che and Ta Kwu Ling OZP, which is considered as minor boundary adjustment and not included in the planning assessment.

and activity purposes. In the eastern portion of the Site, a two-storey structure with a floor area of about 50m² is being used as an office. The operation hours of the applied use are between 9:00am and 5:00pm. The site layout plan and floor plan submitted by the applicant are shown in **Drawings A-1 to A-2**.

1.3 The Site is the subject of two previous planning applications (No. A/NE-TKL/565 and 643) approved by the Rural and New Town Planning Committee (the Committee). The development scheme submitted under the current renewal application is the same as the last application No. A/NE-TKL/643. All the approval conditions of the last application have been complied with.

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application form with an attachment received on 11.8.2023 (Appendix I)
 - (b) Supplementary Information (SI) received on 17.8.2023 and 21.8.2023 (Appendix Ia)
 - (c) Further Information (FI) received on 7.9.2023* (Appendix Ib)
 - (d) FI received on 13.9.2023* (Appendix Ic)
- * *accepted and exempted from publication requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ic**, as summarized below:

- (a) all the approval conditions under the previous applications have been complied with;
- (b) the RCHD at the Site provides a comfortable living place for the disabled; and
- (c) there is no change in the development parameters and operation hours as compared with the previous approved renewal application.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not the “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the concerned land owner. Detailed information would be deposited at the meeting for Members’ inspection. For the GL within the Site, TPB PG-No.31A is not applicable.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 34D (TPB-PG No. 34D) on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. **Background**

The Site is currently not subject to any active enforcement cases.

6. **Previous Applications**

- 6.1 The Site is the subject of two previous applications (No. A/NE-TKL/565 and 643) submitted by the same applicant as the current application. Application no. A/NE-TKL/565 was approved by the Committee on 22.9.2017 mainly on consideration that the nature and the small-scale RCHD was not incompatible with the surrounding developments; no anticipated adverse traffic, environmental, drainage and landscape impacts on the surrounding areas; and no adverse comment or objection to the application. Application no. A/NE-TKL/643 was approved by the Committee on 18.9.2020 on the grounds that all approval conditions imposed on the previous application have been complied with.
- 6.2 Details of the previous applications are summarized at **Appendix III** and the location is shown on **Plan A-1**.

7. **Similar Application**

There is no similar application in the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-4d)

- 8.1 The Site is:
- (a) paved, fenced-off and occupied by a RCHD; and
 - (b) accessible via a local track connecting to Ping Che Road.
- 8.2 The surrounding areas are of miscellaneous rural fringe landscape character comprising temporary domestic structures, a few car repairing workshops intermixed with active / fallow farmland and tree clusters. To the immediate east is the Ta Kwu Ling Farm zoned “G/IC” on the OZP, and to the further north across Ping Che Road is a Chinese temple of Wun Chuen Sin Kwoon (雲泉仙館) zoned “G/IC” and woodlands within “Green Belt” zone.

9. **Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

All departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices IV** and **V** respectively.

11. Public Comment Received During Statutory Publication Period

On 22.8.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from the Chairman of Sheung Shui Rural Committee indicating no comment on the application (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary social welfare facility (RCHD) for a period of three years. The temporary development is not in line with the planning intention of “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. Nevertheless, DAFC has no strong view against the renewal application. Approval of the application on a temporary basis for another three years would not frustrate the long-term planning intention of the “AGR” zone.
- 12.2 The current development scheme is the same as the last approved scheme in terms of the applied use and development parameters. The applied use is considered not incompatible with the surrounding developments which are of miscellaneous rural fringe landscape character comprising temporary domestic structures, a few car repairing workshops intermixed with active / fallow farmland and tree clusters (**Plan A-2**). In view of the small scale nature of the applied use, the development is not expected to have significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. As advised by DSW, the RCHD at the Site is covered with licence valid until 31.7.2024. Concerned government departments consulted, including C for T, DEP, D of FS and CE/MN of DSD, have no adverse comment on or no objection to the application.
- 12.3 The Site is the subject of two previously approved applications (No. A/NE-TKL/565 and 643) for the same use submitted by the same applicant as detailed in paragraph 6.1. All the approval conditions of the last application No. A/NE-TKL/643 have been complied with. There has been no material change in planning circumstances since the approval of the last application.
- 12.4 In view of the above, this application generally complies with TPB PG-No. 34D in that there has been no material change in planning circumstances since the previous approval granted under application No. A/NE-TKL/643; no major adverse departmental comments on the renewal application; all approval conditions under the previous approval have been complied with; and the 3-year approval period sought is the same as the previous approval and is considered reasonable.
- 12.5 Regarding the public comment as detailed in paragraph 11, the government departments’ comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed from 23.9.2023 until 22.9.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities implemented under Application No. A/NE-TKL/643 on the Site shall be maintained properly at all times during the planning approval period;
- (b) submission of a fire service installations proposal within 6 months from the commencement date of renewed planning approval to the satisfaction of the Director Fire Services or of the Town Planning Board by 23.3.2024; and
- (c) implementation of the fire service installations proposal within 9 months from the commencement date of renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.6.2024.
- (d) the submission of a **conditional conditions** record of the existing drainage facilities within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.12.2023;
- (e) if **any of** the above planning condition (a) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (f) if the above planning condition (b), (c) or (d) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- the development is not in line with the planning intention of the "AGR" zone in the Ping Che and Ta Kwu Ling area which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes and retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with an Attachment Received on 11.8.2023
Appendix Ia	SI Received on 17.8.2023 and 21.8.2023
Appendix Ib	FI Received on 7.9.2023
Appendix Ic	FI Received on 13.9.2023
Appendix II	Relevant Extract of TPB Guidelines No. 34D on Renewal of Planning Approval and Extension of Time of Compliance with Planning Conditions for Temporary Use or Development
Appendix III	Previous s.16 Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**